

## REMARKS

Claims 2-5 are presently in this application. Claims 2 and 5 have been amended to more clearly describe the invention.

Claim 5 has been rejected under 35 USC 112. This rejection has been obviated by amending the claim to read “at least one biscuit shaped partition” as suggested by the Examiner.

Claims 2-5 have been rejected under 35 USC 103 the Rosman reference in view of the patent to Cohen.

At the outset, it should be noted that the Examiner does not seem to have properly taken into account the argument regarding “motivation to combine” which was first expressed by applicant in the Amendment filed 12 May 2006. In the first paragraph of page 4 of that Amendment it is noted that none of the cited references suggested or provided motivation for a skilled practitioner in the vehicle storage art to use the cake-pan features of the references in a storage unit for a vehicle, especially in light of the more stringent stiffness and stability requirements of a vehicle storage unit. Thus, it is respectfully submitted that the Examiner has failed to establish a prima facie case of obviousness by showing a suggestion or motivation to combine or modify the references from fields other than the vehicle storage art to provide the present invention which is a storage device for vehicles, namely pickup trucks. (See MPEP 2143.01). Obviousness can only be established by combining or modifying the prior art to produce the claimed invention where there is some teaching, suggestion or motivation to do so. *In re Kahn*, 441 F.3d 977,986 (Fed. Cir. 2006). In view of this absence of any showing of a motivation to combine or modify the cited references for the vehicle storage art claims 2-5 are

allowable over the Rosman and Cohen references , neither of which suggest the applicability of their disclosures to storage units for pickup trucks.

In addition Claim 3 calls for “a plurality of means for attaching the inside wall of said storage tray to a sidewall of said pickup truck”. Under 35 USC 112(6) there “means for” are limited to the means to perform the function described in the specification (e.g. the brackets 20 in Fig. 1 ) of the application or their equivalents. Contrary to the Examiners assertion, Fig. 5 of the Rosman patent clearly contains no functional equivalents of the brackets 20 to attach the Rosman tray to a pickup truck. Indeed Rosman makes no mention whatsoever of pickup trucks.

The remainder of the references are also allowable over Rosman and Cohen as, *inter alia* , being dependant, directly or indirectly, from an allowable claim.

The rejection of claims 2-5 under 35 USC 102 as being anticipated by The Langenbeck reference is traversed for the following reasons.

With respect to claim 2 (as amended) neither of the trays of Langenbeck meet the limitation of “the othe end of said bottom portion having no end wall extending therefrom” since both the upper and lower trays of Langenbeck have end walls extending from **both** ends of their respective bottom portions.

Moreover, the first tray of Langenbeck does not fit “adjustably and congruently” within the second tray , as now required by claim 2, since one of the Langenbeck trays is substantially deeper than the other one.

With respect to the Examiners rejection of Claim 3, the outwardly extending flange 23 of Langenbeck is clearly not an equivalent of the plurality of brackets 20 of the present invention as required by 35 USC 112(6). Moreover it is not understood how this flange 23 can serve as a mounting means to the sidewall of a pickup truck since it is not shaped properly to fit

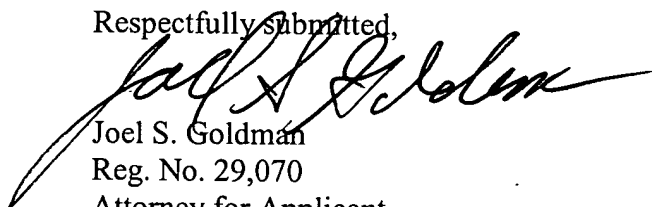
against the flat sidewall of a pickup truck as illustrated in Fig. 1 of the present invention. Finally, the flange 23 cannot as both the 'means for attaching' in claim 3 and the "outwardly extending flange" of claim 4 since the outwardly extending flange need not be (and is never described as being) attached in any way to the sidewall of the pickup truck (See e.g. Fig. 1).

Claims 3-5 are also deemed to be allowable as depending, directly or indirectly , from an allowable claim.

In view of the above, the application is now believed to be in condition for allowance and passage of the application to issue including new claims 2-5 is therefore respectfully requested.

A check in the amount of \$ 510.00 is enclosed for an extension of time to submit this Amendment to Feb 10, 2007. This amount is believed to be correct; however, the Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 501982.

Respectfully submitted,

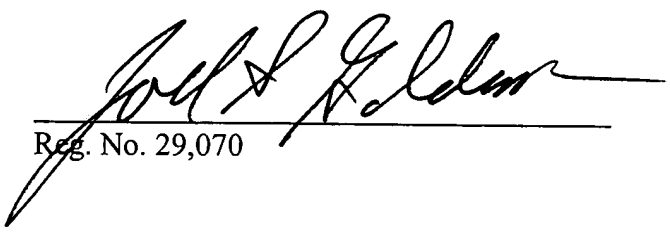


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CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8(a)

I hereby certify that this paper, along with any paper referred to as being attached or enclosed, is being deposited with the United States Postal Service on the date shown below with sufficient postage as U.S. Express Mail in an envelope addressed to the Commissioner for Patents, Mail Stop RCE, Post Office Box 1450, Alexandria, Virginia 22313-1450.

  
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Date: Feb. 10, 2007